

CHAPTER 21. AGRICULTURAL COMMODITY DEALER  
AND WAREHOUSE LAW

§3401. Short title

This Chapter may be cited as the Agricultural Commodity Dealer and Warehouse Law.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983.

§3402. Definitions

As used in this Chapter, the following terms shall have the meanings ascribed below:

(1) "Agricultural commodities" or "commodities" means cotton, all agricultural products commonly classed as grain, including rice, rough rice, corn, wheat, oats, rye, soybeans, barley, and grain sorghum, and any other agricultural commodity or other farm product which the commission may, by regulation, declare to be a commodity subject to this Chapter.

(2) "Authorized agent", with reference to the authorized agent of a warehouse or grain dealer, means any representative thereof whose name has been filed with the commission as required under R.S. 3:3408.

(3) "Commission" means the Louisiana Agricultural Commodities Commission.

(4) "Commissioner" means the Louisiana commissioner of agriculture and forestry.

(5) "Cotton agent" means every person, firm, corporation, association, or other legal entity who purchases or contracts to purchase cotton grown or to be grown by producers in this state for or on behalf of a cotton merchant and who is required to be a party to a notarized written agency agreement.

(6) "Cotton merchant" means every person, firm, corporation, association, or other legal entity who purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown by producers in this state.

(7) "Department" means the Louisiana Department of Agriculture and Forestry.

(8) "Farm products" means products employed directly in the cultivation, production, or harvesting of any agricultural commodities or containers for agricultural commodities or other farm products.

(9) "Grain" means corn, wheat, oats, rye, soybeans, barley, and grain sorghum.

(10) "Grain dealer" means any person who purchases any agricultural commodities from producers or represents producers in the sale of agricultural commodities. The term does not include producers who purchase grain commodities for their own use as feed or seed.

(11) "Hedge" with respect to a contract to sell commodities means a secondary contract to buy commodities to protect the obligations incurred with respect to the contract to sell. "Hedge" with respect to a contract to buy commodities means a secondary contract to sell commodities to protect the obligations incurred with respect to the contract to buy.

(12) "Open" or "open position" means the grain dealer's contracts for purchase or sale of agricultural commodities which are unhedged.

(13) "Open storage" means any storage for which a warehouse receipt has not been issued.

(14) "Person" means any individual, partnership, company, firm, association, cooperative association, corporation, or any other legal entity engaged in any of the activities regulated under this Chapter.

(15) "Producer" means the owner, tenant, lessee, or operator of land within this state who has an interest in or receives all or any part of the proceeds from the sale of agricultural commodities produced thereon.

(16) "Risk position" means the loss potential to the grain dealer resulting from bringing its open position to market.

(17) "Security" means any financial instrument or document issued for the benefit of or given to the commission by a licensee, or participation in any self-insurance fund program authorized by this Chapter as assurance for the fulfillment of the obligations imposed on the licensee by applicable law or regulations.

(18) "Warehouse" means any building, structure, or any other protected enclosure required to be licensed by the commission in which agricultural commodities or other farm products are stored for the public for a fee. The term includes facilities which commingle commodities belonging to different owners and facilities which preserve the separate identities of different lots of agricultural commodities.

(19) "Warehouseman" means any person or other entity operating a warehouse.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1985, No. 793, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2015, No. 430, §1.

§3403. Louisiana Agricultural Commodities Commission; creation; membership; terms; panels of nominees; filling of vacancies; oaths of office; per diem; quorum; domicile; meetings; successor to State Warehouse Commission

A. The Louisiana Agricultural Commodities Commission is hereby created within the Department of Agriculture and Forestry and shall consist of ten members, nine to be appointed by the commissioner as follows:

(1) One warehouseman appointed from a list of three persons nominated by the Rice Millers Association.

(2) One producer appointed from a list of three persons nominated by the Louisiana Soybean Association.

(3) One producer appointed from a list of three persons nominated by the Louisiana Farm Bureau Federation.

(4) One banker who is familiar with the financing of businesses which store or market the commodities which are regulated under this Chapter, appointed from a list of three persons nominated by the Louisiana Bankers Association.

(5) One commodity trader who executes future trades related to a hedging program for purchases or sales of commodities regulated under this Chapter, appointed from a list of three persons nominated by the commissioner.

(6) One owner or operator of an elevator which handles both rice and soybeans, appointed from a list of three persons nominated by the Louisiana Rice Dryers Association.

(7) One owner or operator of an inland elevator or barge-loading river facility or a licensed Louisiana grain dealer appointed from a list of three persons nominated by the Louisiana Ag Industries Association.

(8) One producer appointed from a list of three persons nominated by the American Rice Growers Association.

(9) One cotton merchant appointed from the state at large.

B. Each appointment by the commissioner shall be submitted to the Senate for confirmation.

C. The tenth member shall be the commissioner of agriculture and forestry, who shall serve ex officio, but with all of the powers, rights, duties, and privileges as appointed members, including the right to vote on all matters before the commission.

D. Members shall serve terms concurrent with the commissioner making the appointment. The organizations herein authorized to make nominations for appointments to the commission shall file the initial list of nominees for appointment within sixty days after the effective date of this Section. Thereafter, each organization shall file a list of nominees with the commissioner no later than June thirtieth of the year of the beginning of the commissioner's term.

E. Except as provided herein, vacancies shall be filled in the same manner as original appointments for the unexpired portion of the term. Whenever a vacancy occurs, the organization authorized to make nominations for appointment to the vacant position shall file a list of nominees with the commissioner within sixty days after the vacancy occurs. The commissioner shall make all appointments no later than sixty days after the submission of the list of nominees. Whenever the commissioner fails to make such appointments within sixty days, the industry regulated by this Chapter being vital to the agriculture of this state, the governor may appoint such members. Members appointed by the governor shall enjoy all of the powers, duties, rights, and privileges as members appointed by the commissioner.

F. All members shall take and subscribe to the oath of office prescribed for state officials. Members shall serve until their successors are appointed and qualified.

G. Appointed members of the commission shall be entitled to receive a per diem not in excess of forty dollars and to be reimbursed for mileage expenses in accordance with the same travel regulations applying to state employees.

H. Five members shall constitute a quorum for the transaction of official business. All official actions of the commission shall require the affirmative vote of five members of the commission.

I. The commission shall be domiciled in Baton Rouge.

J. The commission shall meet four times per calendar year, but may meet more frequently upon the call of the chairman.

K. The Louisiana Agricultural Commodities Commission shall be the successor of the State Warehouse Commission created under Act 330 of 1980.

Added by Acts 1982, No. 563, §1, eff. July 22, 1982; Acts 1985, No. 69, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2013, No. 113, §1; Acts 2015, No. 430, §1.

#### §3404. Officers and employees

A. At the first meeting of the commission, the members shall elect, from their membership, a chairman, vice-chairman, and such other officers as the commission may deem advisable.

B. The commission, with the approval of the commissioner, shall appoint a director and an assistant director who shall be in the unclassified service of the state. The director and assistant director may perform any other duties and functions which he or the commission consider necessary or desirable to carry out the purposes of this Chapter.

Added by Acts 1982, No. 563, §1, eff. July 22, 1982; Acts 2009, No. 24, §1, eff. June 12, 2009.

#### §3405. Powers and duties of the commission

A. The commission shall:

(1) Adopt rules and regulations necessary to enforce the provisions of this Chapter, including rules to establish criteria for granting or denying licenses. All rules and regulations shall be adopted in accordance with the Administrative Procedure Act.

(2) Examine and investigate the qualifications of any applicant seeking licensure under this Chapter and determine the eligibility for licensure of each applicant.

(3) Issue licenses to warehouses regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate, provided that the commission shall require such warehouses to be of sound construction, provide security, and be insured as required under this Chapter.

(4) Issue licenses to grain dealers, provided that such persons shall provide security and be insured as required under this Chapter.

(5) Require each warehouse licensed under this Chapter to use only such warehouse receipts and scale tickets as may be furnished or approved by the commission, provided that such warehouse receipts and scale tickets shall be sequentially pre-numbered.

(6) Promulgate regulations setting forth the procedure whereby a farm product shall be regulated under this Chapter prior to the imposition of any requirement relative to the farm product.

(7) Regularly and at least once during each license period, examine, inspect, and audit each licensee under this Chapter.

(8) Issue licenses to cotton merchants regulated under this Chapter, under such terms and conditions as the commission may, by regulation, determine to be appropriate.

B. The commission may:

(1) Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.

(2) Establish reasonable guidelines for and require the submission of inventory reports.

(3) Require each person licensed under this Chapter to submit such reports as are necessary for the proper and efficient administration of this Chapter.

(4) Declare, by regulation, any agricultural commodity or other farm product to be subject to this Chapter.

(5) Establish and impose civil penalties for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act. Each day on which any violation occurs shall be considered a separate offense. No penalty may be imposed unless a

violation is substantiated in an adjudicatory proceeding by the commission under Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950. The commission may not impose any penalty in excess of one thousand dollars for each single day on which a violation occurs.

(6) Suspend or revoke the license of any warehouse, cotton merchant, or grain dealer licensed under this Chapter for any violation of this Chapter or any rule or regulation adopted in accordance with the Administrative Procedure Act, provided that no license shall be revoked in the absence of an adjudicatory proceeding by the commission in accordance with Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

(7) Sue to recover on or enforce the security required under this Chapter and to sue any licensee to recover any payment of a claim from the Self-Insurance Fund or the Grain and Cotton Indemnity Fund, or both, pursuant to the provisions of R.S. 3:3412 and 3412.1 respectively.

(8) Initiate legal proceedings seeking injunctive relief to restrain violations of this Chapter, the rules and regulations adopted by the commission, or the rulings of the commission. Venue for these proceedings shall be in the district court for the parish in which the violation occurred.

Added by Acts 1982, No. 563, §1, eff. July 22, 1982 and Jan. 1, 1983. Acts 1983, No. 8, §1; Acts 1983, No. 10, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §§1, 2, eff. June 30, 2010; Acts 2015, No. 430, §1.

#### §3406. Powers and duties of the commissioner

A. The commissioner shall administer and enforce this Chapter in accordance with the rules and regulations promulgated by the commission. In the administration and enforcement of this Chapter, the commissioner and his duly constituted representatives are specifically authorized to do the following:

(1) Enter the premises of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, at any reasonable time during normal working hours, for the purpose of making any examination or any inspection of the premises and the contents thereof as may be necessary.

(2) Examine, copy, and audit the accounts, books, and records, including stock records, position records, balance sheets, scale tickets, and warehouse receipts of any warehouse, cotton merchant or cotton agent, or grain dealer required to be licensed under this Chapter, including all warehouses or grain dealers, or both, licensed under the United States Warehouse Act, as amended, and any applicant for licensure under this Chapter, or as otherwise permitted under this Chapter.

(3) Weigh and ascertain, by grading, the quality of any agricultural product regulated under this Chapter and certify such weight and grade.

B. The commissioner shall appoint and employ all personnel necessary for the efficient and proper administration of this Chapter, except as provided in R.S. 3:3404(B).

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2011, No. 138, §1, eff. June 24, 2011.

§3407. Seizure by commission

A. The commissioner, with the prior approval of the commission, may institute legal proceedings by petition in the district court for the district in which the licensee is located for an order authorizing the commissioner to effect a seizure of the facilities of the licensee and to act as receiver thereof whenever any of the following conditions occur:

- (1) The licensee does not have sufficient commodities to cover the outstanding warehouse receipts and scale tickets marked for storage issued by the licensee.
- (2) The licensee does not have sufficient funds to operate its business and is in imminent danger of being unable to continue to operate its business.
- (3) The licensee is unable to fulfill its obligations to producers.
- (4) The licensee refuses to submit to a lawful inspection or audit ordered by the commission.

B. Immediately upon the filing of the petition alleging the commission's approval and the existence of any condition set forth in Subsection A of this Section, the court shall issue an ex parte order authorizing the commissioner to effect a temporary seizure of the facilities of the licensee and to act as temporary receiver thereof. This order shall remain in effect until the conclusion of a hearing on the petition which hearing shall be held within ten days after the filing of the petition.

C. The commission may require, on an emergency basis without the necessity of court approval for a period of not more than five days, any licensee to operate under its supervision prior to or during any proceedings leading to the appointment of a receiver as provided under this Section.

D. Whenever the commissioner is appointed to act as receiver he shall continue to act as receiver until all of the assets of the licensee have been distributed to the creditors of the licensee or until ordered by the district court to surrender possession of the assets of the licensee.

E. As part of the receivership, the commissioner may recover from the assets of the licensee the costs of administering the receivership, including the cost of liability insurance for the commission, the commissioner, and employees who are engaged in the administration of the receivership.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010.

§3408. Contents of application for and renewal of warehouse license, cotton merchant license, and grain dealer license

A. The application for licensure as a warehouse, cotton merchant, or grain dealer shall contain:

- (1) The name and business address of the applicant.
- (2) If the applicant is a corporation or other business entity, the names and addresses of the principal officers of the corporation or other business entity.
- (3) If the applicant is a trade, cooperative, or other type of association, the names and addresses of the board of directors of such association.
- (4) The kinds of agricultural commodities which the applicant proposes to store or trade.
- (5) The address and the capacity of the principal place of business of the applicant.
- (6) The address and the capacity of any other locations within the state where the applicant will engage in the business of storing agricultural commodities or buying and selling agricultural commodities on a regular basis.
- (7) A current financial statement which shall include, but not be limited to, the following:
  - (a) A balance sheet.
  - (b) A statement of income (profit and loss).
  - (c) A statement of retained earnings.
  - (d) A statement of cash flows.
- (8) The financial statement shall be one of the following types of statements:
  - (a) A compilation, or compiled statement.
  - (b) A review, or reviewed statement.
  - (c) An audit, or audited statement.
- (9) Except as otherwise provided in Chapter 2 of Title 37 of the Louisiana Revised Statutes of 1950, the financial statement shall be prepared by an accountant who is not a full-time employee of the applicant and who meets at least one of the following requirements:
  - (a) Is a certified public accountant.
  - (b) Is a graduate of an accredited four-year college or university with a degree in accounting.

(c) Has passed the examination administered by the National Society of Accountants.

(10) All financial statements shall be accompanied by a certification by the applicant or the chief executive officer of the applicant, under penalty of perjury as provided in R.S. 14:123, that the financial statement accurately reflects the financial condition of the applicant for the period covered in the statement. Only one financial statement shall be required for a chain of warehouses covered by a single warehouse license. The initial application for a license shall be accompanied by the warehouse's, cotton merchant's, or grain dealer's most recent financial statement. Thereafter, all financial statements shall be filed within ninety days after the close of the grain dealer's, cotton merchant's, or warehouse's fiscal year.

(11) Any additional information which the commission may require.

B. The application for annual renewal of the said licenses shall contain the same information as required under Subsection A of this Section.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983. Acts 1983, No. 11, §1; Acts 1984, No. 951, §1; Acts 1990, No. 121, §1; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2012, No. 145, §1, eff. May 14, 2012.

§3409. Security and provisional stock insurance required as a condition of license, time of filing; amount of security; approval; notice of cancellation; changes in licensed capacity; failure to maintain security and insurance in full force and effect

A. Prior to issuance of the license, an applicant for a warehouse, grain dealer, or cotton merchant license shall furnish to and file with the commission security and provisional stock insurance as a condition for issuance of the license.

B. The security shall be for the faithful performance of all duties and obligations of the prospective licensee, and for compliance with this Chapter and the rules and regulations adopted by the commission pursuant to this Chapter.

C. The security required by this Chapter shall be in favor of the commission and shall be in the form of one of the following:

(1) A surety bond, issued by a bonding or surety company authorized to do business in this state.

(2) A certificate of deposit from a financial institution whose deposits are insured by an agency of the federal government.

(3) An irrevocable letter of credit from a financial institution whose deposits are insured by an agency of the federal government.

(4) Participation in the Self-Insurance Fund in accordance with and as provided by R.S. 3:3412.

(5) Any other security determined to be adequate by the commission.

D. The security required by this Chapter for warehouse licenses shall conform to the following:

(1) The security provided by the applicant for a warehouse license shall cover the same facilities covered by the warehouse license.

(2) The amount of the security shall be determined by the total licensed capacity of the facilities to be covered by the security, as follows:

(a) Twenty cents per bushel for the first million bushels of licensed capacity.

(b) Fifteen cents per bushel for the second million bushels of licensed capacity.

(c) Ten cents per bushel for all bushels over two million bushels of licensed capacity.

(3) Whenever the licensed warehouse capacity changes, the amount of the security shall be amended to conform to the current licensed capacity of the facility or facilities covered by the security.

(4) In any case, the net amount of the security shall not be less than twenty-five thousand dollars and not more than five hundred thousand dollars.

E. The security provided by an applicant for a license as a grain dealer or cotton merchant shall be in the amount of fifty thousand dollars.

F. The security furnished by an applicant shall be approved by the commission prior to the issuance of the license.

G. Each form of security shall provide for ninety days written notice to the commission prior to cancellation.

H. The commission shall be the sole owner of the security and shall be the sole party entitled to sue upon, recover, or enforce the security. Any other person or party, including, without limitation, any licensee, person, producer, cotton farmer or agent, or creditor who has a claim against a licensee, shall have no ownership or other interest in the security and shall have no right to sue upon, recover, or enforce the security, except pursuant to the commission's administrative procedures.

(1) The security furnished by each licensee shall be for the exclusive use and benefit of any person, producer, or cotton farmer or agent that has a claim against that licensee pursuant to the provisions of this Chapter and as determined by the commission pursuant to its administrative procedures.

(2) Any claim on the security by a person against a warehouse licensee, a producer against a grain dealer licensee, or a cotton farmer or agent against a cotton merchant licensee shall be submitted to the commission pursuant to its administrative procedures and, after being determined by the commission to be a valid claim under this Chapter, shall be paid from the commission's recovery on the security.

(3) Should the claim against the licensee not be satisfied in full through the commission's administrative procedures the claimant shall retain all other rights possessed under the law without prejudice.

I. The commission shall require every licensee to maintain a sufficient amount of provisional stock insurance issued by an insurance company authorized to do business in this state to provide adequate protection against fire and other disasters, for the full market value of all agricultural commodities physically in the possession of the licensee, which insurance shall provide for thirty days written notice to the commission prior to cancellation.

J.(1) The security and provisional stock insurance shall be:

(a) Kept in full force and effect as a condition of continuing licensure.

(b) Open for public inspection by the commission.

(2) The licensee shall pay all fees and expenses involved in providing the security and provisional stock insurance.

K. The commission may suspend or revoke the license of any licensee who fails to maintain the required security and insurance in full force and effect.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §2, eff. June 30, 2010; Acts 2012, No. 145, §1, eff. May 14, 2012; Acts 2015, No. 430, §1.

§3410. Warehouse license required prior to operation of warehouse; demonstration of competency; renewal; fees; licensed capacity; prohibition

A. No person shall operate a warehouse wherein any agricultural commodities or other farm products are stored and a fee is charged for such storage unless licensed under this Chapter or under the United States Warehouse Act, as amended.

B. The applicant for a warehouse license shall file the application described in R.S. 3:3408 and demonstrate its competency to engage in the business of operating a warehouse.

C. Each license issued by the commission pursuant to this Section shall specify on the face thereof that it is a warehouse license and shall be posted in all warehouse locations.

D. Each warehouse license issued by the commission shall be valid until June 30 following date of issue and shall be renewed on or before July 1 of each year.

E. The fee for the issuance and the annual renewal of any warehouse license shall be two hundred dollars.

F. Each license shall cover all facilities which are owned or leased by the entity to whom the license is issued and used by the entity in the conduct of its business as a warehouse.

G. Each license shall specify the licensed capacity of each facility covered by the license.

H. No warehouse license shall be issued unless the facility to be licensed is suitable for the storage of the agricultural commodity to be stored therein. The commission may suspend or revoke any warehouse license whenever any licensed facility becomes unsuitable for storage of the agricultural commodity for which it is designed.

I. No person holding a warehouse license shall engage in any other activities regulated under this Chapter unless he holds a license issued by the commission to engage in such activities.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1986, No. 1068, §1, eff. July 17, 1986; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2012, No. 145, §1, eff. May 14, 2012; Acts 2015, No. 430, §1.

§3410.1. License to buy or sell agricultural commodities; posting requirements for grain dealers; duration of license

A. No person shall engage in the business of buying or selling agricultural commodities from producers unless licensed by the commission.

B. Each applicant for a grain dealer license shall file the application described in R.S. 3:3408 and demonstrate its competency to engage in the business of buying or selling agricultural commodities prior to licensure.

C. Each license issued by the commission pursuant to this Section shall specify on the face thereof that it is a grain dealer license, and shall be posted by the licensee in its principal place of business in this state.

D. Each license issued by the commission shall be valid until June thirtieth following the date of issue and shall be renewed on or before July first of each year.

E. The fee for issuance and renewal of each license shall be two hundred dollars.

F. Each grain dealer who issues grades for grain shall employ a grain grader and sampler who is certified to grade and sample the grains for which the grain dealer issues grades.

Acts 1986, No. 1068, §1, eff. July 17, 1986; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2015, No. 430, §1.

§3410.2. License required prior to engaging in business of buying or selling cotton; security requirements; agent agreements

A. Any cotton merchant who purchases or contracts to purchase, either directly or through a cotton agent, cotton grown or to be grown in this state shall be licensed by the commission before purchasing or contracting to purchase such cotton. The license shall authorize cotton merchants and their cotton agents to purchase or enter into contracts to purchase cotton grown or to be grown in this state.

B. Each license issued by the commission under this Section shall specify on the face thereof that it is a cotton merchant license. A copy of the license shall be posted by the licensee in all places of business.

C. Each license issued by the commission shall be valid until June thirtieth following the date of issue and shall be renewed on or before July first of each year.

D. The fee for issuance and renewal of each license shall be two hundred dollars.

E. The commission may require the cotton merchant to submit to an examination and audit of its accounts, books, and records.

F. No cotton merchant shall purchase cotton grown or to be grown by producers in this state without having obtained the prescribed license from the commission as described in Subsection A of this Section. The commission may, for cause, revoke the license.

G. Each cotton agent shall have a written notarized agency agreement with all cotton merchants on whose behalf said cotton merchant acts. No cotton agent shall purchase cotton grown or to be grown in this state until he has obtained a written notarized agency agreement in a form approved by the commission. The commission may require the cotton agent entering into an agency agreement to submit to an examination and audit of his accounts, books, and records. The cost of any examination and audit shall be borne by the cotton agent. The commission may, for cause, revoke the authority of the cotton agent under any written notarized agency agreement.

Acts 2008, No. 920, §1, eff. July 14, 2008; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2015, No. 430, §1.

§3411. Grounds for not issuing license

The commission may refuse to issue a license to any applicant for a warehouse license, cotton merchant license, or grain dealer license if the commission finds that the warehouse proposed for licensure is not suitable for the storage of agricultural commodities, or if the commission finds that the applicant for a warehouse license, cotton merchant license, or a grain dealer license cannot demonstrate a net worth of at least one hundred thousand dollars, or is

incompetent to conduct such warehouse, cotton merchant, or grain dealer business in accordance with this Chapter or the rules and regulations adopted pursuant hereto; or if there is any other sufficient reason within the intent of this Chapter for not issuing such warehouse, cotton merchant, or grain dealer license.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1985, No. 793, §1; Acts 1986, No. 1068, §1, eff. July 17, 1986; Acts 1986, No. 302, §1; Acts 1997, No. 1034, §1; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §2, eff. June 30, 2010; Acts 2012, No. 145, §1, eff. May 14, 2012; Acts 2015, No. 430, §1.

§3411.1. Repealed by Acts 2015, No. 430, §2.

§3412. Self-insurance fund

A. The commission may operate a program of self-insurance for warehouses, grain dealers, and cotton merchants licensed under this Chapter for the sole purpose of ensuring the availability of funds necessary to meet a licensee's obligations with respect to the reimbursement of any person who stored agricultural commodities in the warehouse or reimbursement of a producer who sold agricultural commodities to a licensee, and who was not fully compensated.

B. The insurance coverage claims against a licensee related to insolvency shall be limited to the amount of security required of the licensee by R.S. 3:3409.

C. The commission shall adopt rules and regulations, in accordance with the Administrative Procedure Act, necessary for the efficient administration of the self-insurance program. Such rules shall include:

- (1) Procedures for claims on the self-insurance program.
- (2) Reimbursement limitations.
- (3) Administration of the self-insurance program.
- (4) The establishment of civil penalties for violations of the provisions of the self-insurance program.

D. A person or producer shall be eligible to receive indemnity payments from the self-insurance program if the licensee becomes insolvent and, as a result of the insolvency, is not fully compensated for sums owed to him by the licensee pursuant to any contract between the person or producer and the licensee involving agricultural commodities.

E. Upon a determination of the insolvency of a licensee, the commission shall make the proceeds of the self-insurance program available for use in meeting the licensee's obligations specified in Subsection F of this Section.

F. If claims for indemnity payments from the self-insurance program exceed the amount of available proceeds, the commission shall prorate the claims as provided for in the Administrative Procedure Act and pay the prorated amounts. As future proceeds are collected, the commission shall continue to forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Section.

G. Expenses incurred by the commission in administering the self-insurance program shall be reimbursable from the funds collected under the program. Administrative expenses shall be paid in priority to all other payments.

H. A licensee who knowingly or intentionally refuses or fails to pay into the self-insurance program any funds due pursuant to this Chapter shall be subject to civil penalties.

I. Money paid from the self-insurance program in satisfaction of a valid claim shall constitute a debt obligation of the licensee against whom the claim was made. The commission may take action on behalf of the self-insurance program against such person to recover the amount of payment made plus reasonable costs, including court costs, incurred by the commission in obtaining recovery, legal interest from the date of payment of any claim, and reasonable attorney fees. As a condition of payment of a claim from the self-insurance program, the claimant shall subrogate his interest, if any, to the commission in a cause of action against all parties, to the amount of the loss that the claimant was reimbursed by the self-insurance program.

J. The commission may charge fees for participation in the program established in this Section. The amount of the fees shall be fixed by rule adopted in accordance with the Administrative Procedure Act.

K. The fees charged under this Section shall be subject to the following provisions:

(1) All fees shall be deposited immediately upon receipt in the state treasury.

(2) After compliance with the requirements of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the Agricultural Commodity Commission Self-Insurance Fund. The monies in this fund shall be used solely as provided in Paragraph (3) of this Subsection and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of each fiscal year shall remain in this fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to this fund, again, following compliance with the requirement of Article VII, Section 9 relative to the Bond Security and Redemption Fund.

(3) The monies in the Agricultural Commodity Commission Self-Insurance Fund shall be used solely for the administration and operation of the program of self insurance provided for in this Section.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2015, No. 430, §1.

§3412.1. Grain and Cotton Indemnity Fund; creation; assessment; rules and regulations; suspension of assessment; eligibility for reimbursement; availability of money; prorated claims; reimbursement for administrative expenses; failure to pay; subrogation

A. The commission may operate a Grain and Cotton Indemnity Fund for grain dealers and cotton merchants licensed under this Chapter for the sole purpose of having funds available for use in meeting the licensee's obligations with respect to the reimbursement of any producer who sold agricultural commodities to the licensee and who was not fully compensated.

B. The commission shall charge an assessment at the rate of one twenty-fifth of one percent on the value of all agricultural commodities regulated under this Chapter which are sold to grain dealers and cotton merchants. The assessments shall be due and payable to the commission by the licensee at the first point of sale.

C. The assessments charged under this Section shall be subject to the following provisions:

(1) All assessments collected pursuant to this Section shall be deposited immediately upon receipt in the state treasury.

(2) After compliance with the requirements of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, and prior to monies being placed in the state general fund, an amount equal to that deposited as required by Paragraph (1) of this Subsection shall be credited to a special fund hereby created in the state treasury to be known as the Grain and Cotton Indemnity Fund. The monies in this fund shall be used solely as provided in Paragraph (3) of this Subsection and only in the amounts appropriated by the legislature. All unexpended and unencumbered monies in this fund at the end of each fiscal year shall remain in this fund. The monies in this fund shall be invested by the state treasurer in the same manner as monies in the state general fund, and interest earned on the investment of these monies shall be credited to this fund, again, following compliance with the requirement of Article VII, Section 9 of the Constitution of Louisiana relative to the Bond Security and Redemption Fund.

(3) The monies in the Grain and Cotton Indemnity Fund shall be used solely for the administration and operation of the Grain and Cotton Indemnity Fund provided for in this Section.

(4) The assessment shall not apply to grain or cotton purchased or contracted prior to August 15, 2008.

D. The commission shall adopt rules and regulations, in accordance with the Administrative Procedure Act, necessary for the efficient administration of the Grain and Cotton Indemnity Fund. Such rules shall include:

(1) Procedures for claims on the Grain and Cotton Indemnity Fund.

(2) Reimbursement limitations.

(3) Any rules and regulations necessary for the administration of the Grain and Cotton Indemnity Fund.

(4) The establishment of civil penalties for violations of this Section.

E. At the end of the calendar quarter in which the Grain and Cotton Indemnity Fund reaches a level of six million dollars, the commission shall suspend collection of the assessment required by this Section. If after suspension of collection the balance in the fund is less than three million dollars, the commission shall require collection of the assessment.

F. A producer shall be eligible to receive indemnity payments from the Grain and Cotton Indemnity Fund if:

(1) The licensed grain dealer becomes insolvent after January 1, 2008.

(2) The licensed cotton merchant becomes insolvent.

(3) The licensed grain dealer or cotton merchant, as a result of the insolvency, does not fully compensate the producer in accordance with a sale of agricultural commodities.

G. Upon the insolvency of a licensed grain dealer or cotton merchant, the commission shall make the proceeds of the Grain and Cotton Indemnity Fund available for use in meeting the licensee's obligations with respect to the reimbursement of any producer who sold grain or cotton to the licensee and who was not fully compensated.

H. If claims for indemnity payments from the Grain and Cotton Indemnity Fund exceed the amount in the fund, the commission shall prorate the claims and pay the prorated amounts. As future assessments are collected, the commission shall continue to forward indemnity payments to each eligible person until the person receives the maximum amount payable in accordance with this Section.

I. Expenses incurred by the commission in administering the Grain and Cotton Indemnity Fund shall be reimbursable from the fund. Administrative expenses shall be paid in priority to all other payments.

J. Any licensee who knowingly or intentionally refuses or fails to collect the assessment required under this Section or to submit any assessment collected from producers to the commission for deposit in the Grain and Cotton Indemnity Fund shall be subject to civil penalties.

K. Money paid from the Grain and Cotton Indemnity Fund in satisfaction of a valid claim constitutes a debt obligation of the person against whom the claim was made. The commission

may take action on behalf of the fund against a person to recover the amount of payment made, plus reasonable costs, including court costs, incurred by the commission in obtaining recovery, legal interest from the date of payment of any claim, and reasonable attorney fees. As a condition of payment of a claim from the Grain and Cotton Indemnity Fund, the claimant shall subrogate its interest, if any, to the commission in a cause of action against all parties, to the amount of the loss that the claimant was reimbursed by the fund.

Acts 2015, No. 430, §1.

§3413. Hedging requirement, grain dealer's maximum risk position; appeal from commission action; change of maximum risk position

A. Each grain dealer shall adhere to normal merchandising practices, as determined by the commission, in hedging its obligations. "Normal merchandising practices" means that each grain dealer shall achieve and maintain a relatively even hedge position within a reasonable period of time after each purchase of commodities.

B. In order to determine the risk position of any grain dealer, the commission may require the grain dealer to submit, in addition to the certified financial statement required as a part of the application for licensure, unaudited financial statements in the interim between the annual application for the renewal of the license. No grain dealer may maintain a risk position in excess of thirty percent of its current net worth, provided that the commission may specify a lower maximum risk position for any grain dealer in an amount having a reasonable relationship to that grain dealer's net worth.

C. Whenever the commission, on the basis of its inspection, examination, or audit of a grain dealer, anticipates a need for the establishment of a maximum risk position of less than thirty percent of the grain dealer's current net worth, the commission shall notify the grain dealer, as required by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950, to appear at a public hearing before the commission and show cause why such lower maximum risk position should not be established by the commission for the grain dealer. The grain dealer shall be allowed to appear in person or be represented by counsel at said public hearing and shall be afforded every reasonable opportunity to present data or arguments in support of its position. The commission shall not establish a maximum risk position of less than thirty percent of any grain dealer's current net worth prior to a hearing conducted pursuant to by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

D. The commission may from time to time revise the risk position established for any grain dealer. Whenever the commission proposes to revise the maximum risk position established for any grain dealer, the grain dealer shall be notified and a public hearing conducted as required by Subsection C hereof prior to any change in the maximum risk position established for any grain dealer.

E. Any grain dealer may request in writing at any time that the commission revise the risk position established for his business activities and the commission shall act upon its request at its next regular or special meeting.

F. Any grain dealer aggrieved by any action of the commission in revising its maximum risk position may seek judicial relief as provided by Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.

G. No cotton merchant shall be subjected to any type of hedging requirement.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

#### §3414. Written evidence required for contracts; quarterly statements on storage contracts

A. All contracts, other than contracts for spot sale, in which title shall pass shall be evidenced in writing.

B. In addition to the requirements provided in Subsection A of this Section, the warehouse shall provide a written statement to the producer who has contracted for storage on a quarterly basis. The statement shall include all charges and the rate of accrual of the charges.

C. An oral contract or agreement for the sale of grain capable of being hedged on any grain exchange evidenced by a written, unsigned confirmation of sale, mailed or electronically transmitted to the producer of the grain within five business days shall be deemed a signed contract evidenced in writing as provided in Subsection A of this Section and in Chapter 5 of Title III of Book III of the Louisiana Civil Code.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2006, No. 114, §1; Acts 2008, No. 299, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

##### §3414.1. Prompt payment

Each grain dealer who purchases grain from producers under a spot price or daily market contract shall pay the producer for the grain within ten working days after the day the grain is delivered pursuant to the contract of sale.

Added by Acts 1983, No. 340, §1.

##### §3414.2. Prompt payment for rice

A. The provisions of this Section shall apply to each transaction in which a purchaser buys rice from a producer under a bid contract.

B. As used in this Section, the following terms shall have the following meanings ascribed to them:

(1) "Bid contract" means an agreement between a producer and a purchaser under which the purchaser examines samples of rice and extends to the producer an offer to purchase the rice at a price based on the quality of the sample.

- (2) "Confirmation date" means the date on which the bid contract was confirmed.
- (3) "Confirmed" means the bid contract has been agreed to. A bid contract is confirmed when the producer and the purchaser agree to the quantity and price of the rice to be sold.
- (4) "Delivery date" means the date on which the purchaser is required to take delivery of the rice, either under the provisions of this Section or under the provisions of a written agreement between the producer and the purchaser.
- (5) "Person" means any individual, partnership, corporation, association, or other legal entity.
- (6) "Purchaser" means any person who purchases rice from a producer under a bid contract.

C. Each purchaser shall take possession of the rice which is the subject of the bid contract no later than the fourteenth calendar day after the confirmation date unless the producer and the purchaser agree in writing that the purchaser shall take possession of the rice on a different delivery date.

D. If the purchaser does not take possession of the rice on or before any delivery date, the purchaser shall pay all storage and related charges for the storage of the rice after each delivery date, with such time not to exceed thirty days following each such delivery date.

E. After the thirtieth day following any delivery date, if the purchaser has not taken possession of the rice, the producer shall have the option to either continue to hold the rice for delivery to the purchaser, deliver the rice to another purchaser, or amend the original bid contract by mutual written consent.

F. Each purchaser shall pay for the rice purchased from each producer under a bid contract no later than the tenth calendar day after the purchaser takes possession of the rice or receives accurate distribution instructions from the seller, whichever is later.

G. If the purchaser does not make payment as required in Subsection F, the purchaser shall pay the producer interest on the purchase price at the legal rate of interest as established in R.S. 9:3500.

H. Any grain dealer acting solely as a commissioned agent for the producer in a bid contract transaction shall not be considered a purchaser or a producer in a bid contract where the actual purchasing grain dealer does not take possession of the rice.

Acts 1985, No. 482, §1; Acts 1986, No. 515, §1; Acts 2004, No. 580, §1.

#### §3414.3. Grain sampling and grading

A. The commission by rule shall adopt standards for sampling and grading grain. The standards shall include tolerances for the interpretive element of grading. The standards shall be consistent with the standards adopted by the United States Department of Agriculture for sampling and

grading grain. The commission shall provide copies of any changes in the standards to each grain dealer prior to the date the changes become effective.

B. The commission may certify grain samplers and graders. The commission may conduct courses of instruction in the methods of sampling and grading grain in one or more locations throughout the state. Each person who displays an adequate knowledge of sampling and grading grain which is satisfactory to the commission shall be issued a certificate.

C. Each grain dealer who issues grades for grain shall sample and grade each load of grain delivered by a producer within seventy-two hours from the time the grain is delivered to the grain dealer.

D. Each grain dealer who issues grades for grain shall retain each sample of grain received from a producer which is subject to excessive deductions. The commission by rule shall determine the level of deductions which are excessive for each type of grain. This determination shall include deductions for all causes and shall be based upon the numerical grades determined for each type of grain by the United States Department of Agriculture. Samples of grain which are subject to excessive deductions shall be retained in separate containers and shall be retained for five days from the date the sample was graded.

E. Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.

F. If a dispute arises as to the grading of a sample which is subject to excessive deductions, the grain dealer, or the producer, or both, may request that the sample be regraded by the department. If a regrading is requested, the grain dealer shall provide the sample to the department.

G. The department may charge a fee for regrading a sample. The fee shall be fixed by the commission by rule in an amount not to exceed fifty dollars.

H. If the dispute is not resolved on the basis of the regrading, either party may introduce the results of the regrading in evidence in any legal action which results from the dispute.

I. The employees of the department may inspect randomly selected samples to determine if a grain dealer who issues grades for grain is taking samples and grading grain in accordance with the standards adopted by the commission. The department shall not charge for an inspection under the provisions of this Section. The sample shall be obtained, or the inspection performed, during the normal working hours of the grain dealer.

J. If a grain dealer who issues grades for grain does not take samples or grade grain in accordance with the standards adopted by the commission, the commission may place the grain dealer on probation. If the grain dealer continues to sample or grade grain incorrectly, or if the grain dealer fails to retain samples or to provide samples as required by this Section, the commission may suspend or revoke the grain dealer's license.

K. A grain dealer may be placed on probation and a grain dealer's license may be suspended or revoked only by a ruling of the commission based on an adjudicatory hearing held in accordance with the Administrative Procedure Act.

L. The department shall inspect, classify, and grade all grain subject to this Subsection. The department may charge a fee for inspecting, classifying, and grading grain. The fee shall be fixed by the commission by rule and shall be based on the actual cost of providing the service. The provisions of this Subsection shall not apply to grain sold for export nor to inbound grain intended for export shipment.

Acts 1985, No. 793, §1; Acts 1986, No. 316, §1; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2010, No. 767, §§1, 2, eff. June 30, 2010.

§3414.4. Prompt payment for cotton; suit on bond; private action; attorney fees

A. Any cotton merchant or cotton agent who purchases cotton from a producer shall pay the producer for the cotton within ten working days after the day the cotton is delivered, or pursuant to the contract of sale.

B. Any producer from whom cotton was purchased or contracted to be purchased and to whom money is due for cotton sold for future delivery as a result of the nonperformance of the cotton merchant or cotton agent shall be entitled to submit a claim on the security to the commission pursuant to its administrative procedures. Limitation of liability as to the security shall not restrict suits against the cotton merchant or cotton agent for losses incurred in excess of the amount of the security. Suit may be brought in any parish where the crop or any part thereof was grown or any other venue authorized by law. Upon suits being filed in excess of the amount of the bond or alternate security, the commission may require new security in an amount sufficient to secure the aggregate amount of such suits, and if such additional security is not given within thirty days of demand therefor, the commission may cancel the license of the cotton merchant. In the case of the insolvency of a cotton merchant, any cotton producer or cotton landowner having contracts for future delivery shall be entitled to submit a claim on the security to the commission pursuant to its administrative procedures and participate in the recovery on the security to the extent of his pro rata losses under his contract.

C. Should the security proceeds recovered be insufficient to satisfy all claims in full, any producer who has received only partial satisfaction shall retain all other rights possessed under the law without prejudice.

D. The commission may bring an action on the security in any court of competent jurisdiction.

Acts 1997, No. 1034, §1; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2015, No. 430, §1.

§3415. Scale ticket required; contents

A. Whenever any agricultural commodity or other farm product is delivered to a warehouse or grain dealer licensed under this Chapter, the warehouse or grain dealer shall issue a scale ticket covering the commodity or other farm product within seventy-two hours of delivery. Scale tickets covering commodities or other farm products deposited for any type of storage shall be marked to indicate "storage". Title to commodities deposited for storage shall remain with the producer.

B. Repealed by Acts 2010, No. 767, §2, eff. June 30, 2010.

C. Each warehouse and grain dealer shall use sequentially prenumbered scale tickets which shall have an original and not less than one copy.

D. Each scale ticket shall contain the following information:

(1) The name and location of the licensed warehouse or grain dealer facility where delivered.

(2) The name and other information sufficient to identify the owner of the agricultural commodity or other farm product.

(3) The type, quantity, and grade or applicable grade factors necessary to determine the net value of the commodity received. This requirement shall not apply to grain dealers and warehouses which do not issue grades.

(4) The date the commodity was delivered.

(5) One of the following, as appropriate:

(a) If the commodity is to be deposited on a "spot" basis, the words "spot" or "spot sale", and when so marked the scale ticket shall serve as written confirmation of the sale.

(b) If the commodity is deposited for any type of storage, the word "storage".

(c) If the commodity is deposited for contract, the word "contract".

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1986, No. 337, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §2, eff. June 30, 2010.

§3416. Warehouse receipts; authorization for and release

A. Each warehouse shall, on demand, issue a warehouse receipt for any agricultural commodity or other farm product stored in the warehouse. Warehouse receipts may be negotiable or non-negotiable.

B. Each person to whom a non-negotiable warehouse receipt is issued shall furnish the warehouse with a written statement indicating the person or persons having power to authorize delivery of the commodity covered by the warehouse receipt, together with a bona fide signature

of such person or persons. No warehouse shall honor an order for the release of the commodity covered by a non-negotiable warehouse receipt until it has first ascertained that the person issuing the order has authority to order the release and that the signature of the person authorizing the release is genuine.

C. Except as otherwise provided by law, or by the rules and regulations of the commission, a warehouse shall not deliver any agricultural commodity or other farm product for which it has issued a non-negotiable warehouse receipt unless the warehouse receipt has been returned to it or unless it has obtained an authorized written order for a partial release of such commodity or other farm products. When a portion of the commodity has been delivered on the basis of a partial release, the last portion of the commodity shall not be delivered unless the warehouse receipt is returned.

D. In any circumstances not specifically provided for in this Chapter, the provisions of Chapter 7 of Title 10 of the Louisiana Revised Statutes of 1950 control.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009.

#### §3417. Special provisions for handling of warehouse receipts

A. While an original warehouse receipt issued under this Chapter is outstanding and uncanceled, no other or further warehouse receipt shall be issued for the agricultural commodity or other farm product, or any part thereof, covered by such outstanding and uncanceled warehouse receipt.

B. Whenever a warehouse receipt is lost or destroyed, a warehouse receipt to replace such lost or destroyed warehouse receipt may be issued, but only with the prior approval of the commission.

C. No warehouse receipt shall be issued except for agricultural commodities or other farm products which are actually stored in the warehouse at the time of issuance of the warehouse receipt.

D. Every warehouse shall promptly and plainly cancel on the face thereof each warehouse receipt returned to it upon the delivery by it of the agricultural commodity or other farm product for which the warehouse receipt was issued.

E. Whenever any agricultural commodity or other farm product is held in open storage, the warehouse or grain dealer shall have a warehouse receipt to cover the agricultural commodity or other farm product or shall be able to account for the physical whereabouts of the agricultural commodity or other farm product.

F. Failure to properly account for any agricultural commodity or other farm product in open storage may subject the warehouse or grain dealer to seizure as provided by R.S. 3:3407, suspension or revocation of its license, other penalties provided by this Chapter, or any combination hereof.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3418. Delivery and discharge from storage of stored agricultural commodities

A. Except as provided herein, every warehouse licensed under this Chapter shall, without unnecessary delay, deliver the agricultural commodity or other farm product stored therein upon a demand made either by the holder of a warehouse receipt or a scale ticket marked for storage covering the agricultural commodity or other farm product or by the depositor thereof if such demand is accompanied by an offer to satisfy the warehouse lien; an offer to surrender the warehouse receipt, if negotiable, with such endorsements as would be necessary for the negotiation of the warehouse receipt; and written acknowledgment, when the agricultural commodity or other farm product is delivered to it, that the commodity or product has been so delivered. The above action is not required in any circumstances where the warehouse has determined that there are liens recorded against the commodity or other farm product covered by the warehouse receipt or scale ticket marked for storage or where the order of any court of competent jurisdiction prohibits the release of the agricultural commodity or other farm product.

B. Every warehouse may require any depositor of an agricultural commodity or other farm product to remove the commodity or other farm product from storage upon sixty days prior written notice to the depositor.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2009, No. 24, §1, eff. June 12, 2009.

§3419. Records required

A. Each warehouse shall maintain complete, separate, and correct records and accounts pertaining to each warehouse, including, but not limited to, records and accounts of all commodities and farm products received therein and withdrawn therefrom, all unissued warehouse receipts and scale tickets issued by it, and the warehouse receipts and scale tickets returned to it and canceled by it.

B. Each grain dealer and cotton merchant shall maintain complete, separate, and correct records, including but not limited to records of each transaction with each producer and records reflecting the grain dealer's or cotton merchant's daily position with respect to all commodity transactions.

C. Warehouses, cotton merchants, and grain dealers shall maintain all required records in a form acceptable to the commission for a period of five years.

D. Each warehouse, cotton merchant, and grain dealer shall permit any officer or authorized representative of the commission to enter all locations listed on the application of such warehouse, cotton merchant, or grain dealer and inspect, copy, examine, or audit all contents, facilities, equipment, records, books, and accounts relating thereto. Such inspection, copying, examination, or audit may be made on any business day, during normal working hours. The warehouse, cotton merchant, or grain dealer shall provide the necessary assistance required for any inspection, copying, examination, or audit made in accordance with this Chapter or the rules and regulations adopted pursuant hereto.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009; Acts 2010, No. 767, §1, eff. June 30, 2010; Acts 2011, No. 138, §1, eff. June 24, 2011.

#### §3419.1. Communication of producer information

A. Notwithstanding any other law or contractual provision to the contrary, a grain dealer and agriculture lender may communicate, either orally or in writing, information related to an agricultural commodities booking or contract concerning a producer with whom the parties have a mutual business relationship. Information concerning the producer that may be shared shall be limited to the following:

- (1) Name, address, phone number, and Farm Service Agency number.
- (2) The amount of agricultural commodities booked or contracted by the producer and prices contracted for.
- (3) Grain dealer or marketer expenses, carrying costs, hedging expenses, and the amount of agricultural commodities actually delivered by a producer on a production contract.
- (4) The amount of crop loans made to a producer and any loan balances outstanding with respect to the producer for such crop loans and any collateral and security interests applicable to such crop loans.

B. Notwithstanding any other law or contractual provision to the contrary, any grain dealer or agriculture lender that communicates information provided for under Subsection A of this Section shall be held harmless and shall not be liable to the producer or any other party under any theory of law for communicating such information.

C. A grain dealer or agriculture lender receiving information relative to a producer under the provisions of this Section shall not share the information with any persons not authorized in this Section to receive such information.

D. The provisions of this Section shall only be applicable during the duration of a gubernatorially or presidentially declared disaster which includes the parish or parishes where a producer, with whom a lender and elevator have a mutual business relationship under the provisions of this Section, farms or produces agricultural commodities.

Acts 2010, No. 860, §1.

#### §3420. Schedule of charges and tariffs

Whenever there is a change in any warehouse's schedule of charges or tariffs, the new schedule shall be filed with the commission prior to implementation thereof. These charges or tariffs shall be the same for the same class of service to each customer of the warehouse and shall be posted conspicuously in each location covered by the license.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2012, No. 145, §1, eff. May 14, 2012.

§3421. Confidentiality of records

Notwithstanding the provisions of Chapter 1 of Title 44 of the Louisiana Revised Statutes of 1950, all financial statements, position reports, and any other documents required for licensure and filed by applicants for licensure under this Chapter shall be kept confidential by the commission and its agents and employees and are not subject to disclosure except as follows:

- (1) Upon waiver by the licensee.
- (2) In actions or administrative proceedings commenced under this Chapter or Chapter 13 of Title 49 of the Louisiana Revised Statutes of 1950.
- (3) When required by subpoena or court order.
- (4) Disclosure to law enforcement agencies in regard to the detection and prosecution of criminal offenses.
- (5) When released to a bonding company approved by the commission or to the United States Department of Agriculture or any of its divisions.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 2011, No. 138, §1, eff. June 24, 2011.

§3422. Commission authorized to charge regulatory fees

A. The commission shall charge regulatory fees on all agricultural commodities or other farm products regulated under this Chapter. The regulatory fees shall be due and payable to the commission by the licensee at the first point of sale as follows:

- (1) \$.01 per hundredweight for commodities normally weighed by hundredweight.
- (2) \$.007 per bushel for commodities normally weighed by bushel.

B. The commission by rule may establish regulatory fees for all other agricultural commodities and other farm products regulated under this Chapter and the point at which the regulatory fees shall be due and payable by the licensee. The regulatory fees established by the commission under this Subsection shall be comparable to the regulatory fees established under Subsection A of this Section.

C. No producer shall be entitled to claim a refund of any regulatory fees established by the commission under this Section.

D. Every moisture measuring device used or held for use at any commercial facility which receives, holds, dries, stores, mills, processes or otherwise deals in agricultural commodities in this state, when such use or intended use is for the purpose of determining discounts or other

price variances in connection with the purchase or sale of such commodity, shall be registered with the Louisiana Department of Agriculture and Forestry. The commission shall register and inspect all moisture meters or other devices used to measure moisture in agricultural commodities on an annual basis. The commission may establish by rule and regulation a fee for the registration and inspection of moisture meters or other such devices not to exceed twenty dollars for registration and forty dollars for inspection.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1988, No. 161, §1; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2010, No. 767, §1, eff. June 30, 2010.

§3423. Deposit of the revenues of the commission; Agricultural Commodity Dealers and Warehouse Fund

A. All assessments, fees, penalties, and all other funds received under the provisions of this Chapter, subject to the exceptions contained in Article VII, Section 9 of the Constitution of Louisiana, shall be deposited immediately upon receipt into the state treasury and shall be credited to the Bond Security and Redemption Fund.

B. Out of the funds remaining in the Bond Security and Redemption Fund after a sufficient amount is allocated from that fund to pay all obligations secured by the full faith and credit of the state which become due and payable within any fiscal year, the state treasurer, prior to placing the remaining funds in the state general fund, shall pay an amount equal to the total amount of funds paid into the state treasury under the provisions of this Chapter into a special fund which is hereby created in the state treasury and designated as the Agricultural Commodity Dealers and Warehouse Fund, hereafter in this Section referred to as the "fund".

C. All unexpended and unencumbered monies in the fund at the end of the fiscal year shall remain in the fund. The state treasurer shall invest monies in the fund in the same manner as monies in the state general fund. All interest earned on monies from the fund invested by the state treasurer shall be deposited in the fund.

D. Subject to appropriation, the monies in the fund shall be used for the following purposes:

(1) To provide for the expenses of the program established by this Chapter, as determined by the commissioner.

(2) To fund any and all costs related to the carrying out of purposes of this Chapter and the powers and duties granted to the commission and the commissioner under this Chapter.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983. Acts 1992, No. 984, §2; Acts 2003, No. 172, §1, eff. July 1, 2003; Acts 2011, No. 138, §1, eff. June 24, 2011.

{{NOTE: SEE ACTS 1985, No. 793, §2.}}

§3424. Prohibited acts; criminal penalties

A. It shall be unlawful for any warehouse to sell, alienate, encumber, transfer title to, pledge, mortgage, or hypothecate in any manner any agricultural commodity or other farm product, or any portion thereof, which has been deposited by the owner thereof specifically for any type of storage, under any type of warehouse receipt or under a scale ticket marked "storage", and which is not the property of the warehouse, without the specific written authorization of the owner thereof. The sale, alienation, encumbrance, transfer of title, pledging, mortgaging, or hypothecation of any such agricultural commodity or other farm product without the written authorization of the owner thereof shall be presumptive evidence of the warehouseman's criminal intent to deprive such owner of his agricultural commodity or other farm product, or the market value thereof, and the warehouse and warehouseman shall be subject, upon conviction, to a fine of not more than ten thousand dollars, imprisonment for not more than ten years, or both.

B. Any grain dealer who intentionally violates R.S. 3:3413(B) by maintaining a risk position in excess of thirty percent of its current net worth shall be subject, upon conviction, to a fine of not more than ten thousand dollars, imprisonment for not more than ten years, or both.

C. Any warehouseman, cotton merchant, or cotton agent, or grain dealer who is found to have willfully submitted false reports of any kind required by this Chapter or by rule or regulation of the commission shall be subject, upon conviction, to the penalties for perjury established under R.S. 14:123.

D. The willful failure of a cotton merchant or a cotton agent to pay for cotton delivered which was purchased by the cotton merchant or cotton agent from a cotton producer in this state shall be fraudulent conduct for the purposes of R.S. 14:67.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §1; Acts 2009, No. 24, §1, eff. June 12, 2009.

#### §3425. Limitations of applicability

The provisions of this Chapter shall not apply to, and the commission shall not have jurisdiction over, the following:

- (1) Cold storage facilities.
- (2) Facilities which store only commodities which are imported from outside the boundaries of the continental United States.
- (3) Repealed by Acts 1997, No. 1034, §2.

Added by Acts 1982, No. 563, §1, eff. Jan. 1, 1983; Acts 1997, No. 1034, §2.